

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JPMORGAN CHASE BANK, N.A., a national
association,

Plaintiff,

vs.

LAS VEGAS DEVELOPMENT GROUP, LLC,
a Nevada limited liability company; DOES 1
through 10; and ROE BUSINESS ENTITIES 1
through 10, inclusive,

Defendants.

Case No. 2:13-cv-01249-APG-VCF

**ORDER GRANTING PRELIMINARY
INJUNCTION AND GRANTING
LEAVE TO FILE COUNTERCLAIM**

Defendant, LAS VEGAS DEVELOPMENT GROUP, LLC, by and through its attorneys, ROGER P. CROTEAU & ASSOCIATES, LTD., has presented to this Court an Ex Parte Emergency Application for Temporary Restraining Order and Preliminary Injunction on Order Shortening Time [Doc. #21, 22], requesting injunctive relief staying a foreclosure sale of that real property commonly known as 1003 Country Skies Avenue, Las Vegas, Nevada 89123, Assessor Parcel No. 177-22-615-006. The foreclosure sale was scheduled to take place on March 21, 2014 at 9:00 a.m. The Court entered a Temporary Restraining Order [Doc. #26] on March 20, 2014, subsequent to a hearing of Defendant's Motion for a Temporary Restraining Order on March 19, 2014, and scheduled a Preliminary Injunction hearing to be held on March 27, 2014. The Court further granted Defendant leave to file an emergency motion to amend its pleadings with a counterclaim. Defendant filed its Emergency Motion for Leave to Amend Pleadings by Filing a Counterclaim on March 20, 2014 [Doc. #27]. Plaintiff did not file a written response. The parties thereafter appeared before the Court on March 27, 2014, at 1:30 p.m.

Real property is unique, and the loss of real property may constitute irreparable harm. *Dixon v. Thatcher*, 103 Nev. 414, 416 (1987). Defendant asserts that the secured interest which purportedly forms the basis for the non-judicial foreclosure sale that was scheduled to take place

1 on March 21, 2014, or any continued sale based upon said allegedly secured interest, was
2 extinguished by operation of law upon the foreclosure of a homeowners association lien
3 containing super-priority amounts pursuant to N.R.S. Chapter 116. Defendant asserts that
4 because the Plaintiff lacks any valid secured interest, it therefore possesses no right nor basis
5 whatsoever to foreclose upon the Property. Defendant argues that it stands to suffer irreparable
6 harm if relief is not immediately granted, that Defendant has a likelihood of success on the merits
7 of this case, and that Defendant has no adequate remedy at law.

8 Upon review of the pleadings and papers on file herein, the Court finds that the
9 Defendant will suffer irreparable injury the real property commonly known as 1003 Country
10 Skies Avenue, Las Vegas, Nevada 89123, Assessor Parcel No. 177-22-615-006 is the subject of a
11 foreclosure sale related to the secured interest that the Defendant asserts has been extinguished.
12 At a minimum, allowing the foreclosure sale to proceed would create significant and likely
13 irreparable clouds on the title to the subject property. Moreover, the Defendant has a likelihood
14 of success on the merits of its case, the balance of equities favors the Defendant, and the
15 Defendant has no adequate remedy at law. Thus, the Court finds that grounds are present to
16 allow for the issuance of a Preliminary Injunction.

17 With respect to Defendant's Emergency Motion for Leave to Amend Pleadings by Filing
18 a Counterclaim, Federal Rule of Civil Procedure 15(a) provides that leave to amend "shall be
19 freely given when justice so requires." The Court finds that no reason exists to deviate from the
20 liberal purposes of Fed. R. Civ. P. 15 in this instance. The Court further finds that to the extent
21 that Defendant seeks to amend its pleadings after the pretrial scheduling order's deadline for
22 amending the pleadings has expired, good cause exists to allow the filing of the proposed
23 Counterclaim. GOOD CAUSE APPEARING THEREFOR,

24 IT IS HEREBY ORDERED that Plaintiff JPMORGAN CHASE BANK, N.A., and/or any
25 other party or entity, including but not limited to THE COOPER CASTLE LAW FIRM, are
26 hereby enjoined from taking or continuing any action to foreclose upon the real property
27 commonly known as 1003 Country Skies Avenue, Las Vegas, Nevada 89123, Assessor Parcel
28 No. 177-22-615-006, until further Order of this Court.

1 IT IS FURTHER ORDERED that the bond posted by the Defendant in association with
2 the Temporary Restraining Order in the amount of \$1,000.00 shall stand as security for this
3 Preliminary Injunction. The Plaintiff will be permitted to move for additional security in the
4 future if property values are significantly decreasing such that the security posted is no longer
5 sufficient, or some other changes of circumstances occurs.

6 IT IS FURTHER ORDERED that the Defendant shall keep the subject property well
7 maintained, ensure that all applicable taxes, fees, and assessments are paid, and maintain
8 insurance on the property and all improvements in an appropriate amount during the pendency of
9 this action.

10 IT IS FURTHER ORDERED that Defendant is granted leave to file the proposed
11 Counterclaim attached to its Emergency Motion for Leave to Amend [Doc. #27].

12 DATED this 1st day of April, 2014.

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15 UNITED STATES DISTRICT COURT JUDGE
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